

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Government Efficiency Appropriations Committee

BILL: SB 692

INTRODUCER: Senator Webster

SUBJECT: Sales Tax Holiday on Books, Clothing and School Supplies

DATE: February 1, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Keating	Johansen	GE	Favorable
2.				
3.				
4.				
5.				
6.				

I. Summary:

The bill provides that no sales and use tax will be collected on sales of books, clothing, wallets, or certain bags having a selling price of \$50 or less during the last 9 days of July 2006. The bill also provides that no sales and use tax shall be collected on sales of school supplies having a selling price of \$10 per item or less during that same period of time.

II. Present Situation:

Pursuant to chapter 212, F.S., the State of Florida levies a 6 percent sales and use tax on most sales of tangible personal property and a limited number of services. Section 212.08, F.S., provides for specific exemptions from the sales and use tax imposed by this chapter. The statutes currently provide more than 200 non-service exemptions. Exemptions generally take the form of identifying specifically exempt items, exempting items when used for particular purposes, and exempting purchases or sales by certain types of organizations, such as the government, churches, and charitable organizations. Section 212.08(7), F.S., provides for 54 miscellaneous exemptions.

Local governments are authorized to levy numerous types of local discretionary sales surtaxes pursuant to s. 212.055, F.S. The maximum they may levy is 2.5 percent. Under the provisions of s. 212.054, F.S., the local discretionary sales surtaxes apply to all transactions "subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions" by chapter 212, F.S. and on communications services by chapter 202, F.S. In addition, the surtax does not apply to any sales amount above \$5,000 on any item of tangible personal property. This \$5,000 cap does not apply to the sale of any service.

In 1998, 1999, 2000, 2001, 2004, and 2005 the Legislature created the “Florida Residents Tax Relief Act”. (Chapters 98-341, 99-229, 2000-175, 2001-148, 2004-73, L.O.F., and 2005-271, L.O.F.) In 2005, the act provided that no sales and use tax would be collected on sales of books, clothing, wallets, or bags having a selling price of \$50 or less during the last 9 days of July 2005. The term “book” was defined to mean a set of printed sheets bound together and published in a volume but did not include newspapers, magazines or other periodicals. The term “clothing” was defined to mean any article of wearing apparel intended to be worn on or about the human body, including all footwear, except skis, swim fins, roller blades, and other skates but did not include watches, watchbands, jewelry, umbrellas, or handkerchiefs. The term “bags” included handbags, backpacks, fanny packs, and diaper bags but excluded briefcases, suitcases, and other garment bags. Also exempt were school supplies having a selling price of \$10 per item or less. The term “school supplies” included pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, computer discs protractors, compasses, and calculators.

III. Effect of Proposed Changes:

Section 1. The bill provides that no sales and use tax will be collected on sales of books, clothing, wallets, or bags, including handbags, backpacks, fanny packs, and diaper bags, but excluding briefcases, suitcases, and other garment bags, having a selling price of \$50 or less during the last 9 days of July 2006. The term “clothing” means any article of wearing apparel, including all footwear, except skis, swim fins, roller blades, and skates, intended to be worn on or about the human body, but excludes watches, watchbands, jewelry, umbrellas, and handkerchiefs. The term “book” means a set of printed sheets bound together and published in a volume, but does not include newspapers, magazines, or other periodicals. This sales tax exemption, however, does not apply to sales within a theme park, entertainment complex, public lodging establishment, or airport, as defined in ss. 509.013(4) and 330.27(2), F.S.

This bill also provides that no sales and use tax shall be collected on sales of school supplies having a selling price of \$10 per item or less during the last 9 days of July 2006. The term “school supplies” means pens, pencils, erasers, crayons, notebooks, notebook filler paper, legal pads, composition books, poster paper, scissors, cellophane tape, glue or paste, rulers, protractors, computer discs, compasses, and calculators. This sales tax exemption, however, does not apply to sales within a theme park, entertainment complex, public lodging establishment, or airport, as defined in ss. 509.013(4) and 330.27(2), F.S. The Department of Revenue may adopt rules to administer the provisions in the bill.

Section 2. The bill appropriates to the Department of Revenue \$206,000 from the General Revenue Fund for the purpose of administering the provisions of the bill.

Section 3. The bill takes July 1, 2006.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill falls under subsection (b) of s. 18 of Art. VII, Florida Constitution. Subsection (b) requires a two-thirds vote of the membership of each house in order to enact a general

law reducing the authority that municipalities and counties had on February 1, 1989, to raise revenues in the aggregate. By adding an exemption to the state sales tax, this bill has the effect of adding an exemption to the local option county sales surtax. Since the annual local revenue loss is estimated to be more than \$1.7 million, this bill will not be exempt from the requirements of subsection (b).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The bill has not been reviewed by the Revenue Estimating Conference. The estimated fiscal impact of last years “Sales Tax Holiday” (HB 101) was a non-recurring total loss of \$37.9 million: \$31.2 million in General Revenue; \$0.1 million to the Ecosystem and Restoration Management Trust Fund; and \$6.6 million to local governments.

B. Private Sector Impact:

During the specified period, books, clothing, wallets, and bags selling for \$50 or less and school supplies selling for \$10 or less can be purchased for 6 percent to 8.5 percent less depending on the local option tax rate. Given the timing of the tax-free period, families will be able to save money on books, clothing and school supplies prior to the beginning of the school year. Moreover, the tax exemptions provided by the bill should significantly increase sales of exempt items during the nine tax-free days.

Although retail sellers may incur some costs for the reprogramming of cash registers and accounting systems, these costs should be mitigated by the existence of procedures developed for previous tax-free shopping periods.

C. Government Sector Impact:

The Department of Revenue may adopt rules to carry out the provisions of the bill and is appropriated \$206,000 from the General Revenue Fund for administrative purposes. As for the previous tax free holidays, the department would promulgate a rule that provides a comprehensive list of clothing items, school supplies and their taxable statuses pursuant to the bill. According to the department, the use of an administrative rule and a “Taxpayer Information Publication” was very effective during the past six tax-free holidays in implementing the tax-free acts.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

VIII. Summary of Amendments:

None.

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